

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY TURNPIKE WATER	)	
DISTRICT AND GERALD P. BURKE,	)	
SUPERINTENDENT, INDIVIDUALLY	)	
AND IN HIS OFFICIAL CAPACITY	)	
_____	)	CASE NO. 97-168
	)	
ALLEGED VIOLATION OF	)	
COMMISSION'S ORDER	)	

O R D E R

Kentucky Turnpike Water District ("Kentucky Turnpike") is a water district created pursuant to Chapter 74 of the Kentucky Revised Statutes which owns, controls, and operates facilities used for the distribution of water to the public for compensation in Bullitt County, Kentucky. As such, it is a utility subject to the jurisdiction of the Public Service Commission pursuant to KRS 278.010(3)(d).

On November 15, 1996, a complaint against Kentucky Turnpike was filed with the Commission by Jesse and Barbara Ashbaugh. The Commission docketed this complaint as Case No. 96-557.<sup>1</sup> The Commission by Order of November 25, 1996 directed Kentucky Turnpike to satisfy or answer the complaint within 10 days. The Commission received no reply to its Order. On January 24, 1997, the Commission's Executive Director sent a letter, with the Commission's November 25, 1996 Order attached, by certified mail to Gerald P. Burke, Kentucky Turnpike's superintendent. This letter requested that a response to the Commission's Order be filed within seven days.

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<sup>1</sup> Case No. 96-557, Jesse and Barbara Ashbaugh vs. Kentucky Turnpike Water District.

Kentucky Turnpike has yet to respond to the Commission's Order of November 25, 1996.

Pursuant to KRS 278.990(1),

Any officer, agent, or employee of a utility, as defined in KRS 278.010, and any other person who willfully violates any of the provisions of this chapter or any regulation promulgated pursuant to this chapter, or fails to obey any order of the commission from which all rights of appeal have been exhausted, or who procures, aids, or abets a violation by any utility, shall be subject to either a civil penalty to be assessed by the commission not to exceed two thousand five hundred dollars (\$2,500) for each offense or a criminal penalty of imprisonment for not more than six (6) months, or both. If any utility willfully violates any of the provisions of this chapter or any regulation promulgated pursuant to this chapter, or does any act therein prohibited, or fails to perform any duty imposed upon it under those sections for which no penalty has been provided by law, or fails to obey any order of the commission from which all rights of appeal have been exhausted, the utility shall be subject to a civil penalty to be assessed by the commission for each offense not less than twenty-five dollars (\$25.00) nor more than two thousand five hundred dollars (\$2,500). Each act, omission, or failure by an officer, agent, or other person acting for or employed by a utility and acting within the scope of his employment shall be deemed to be the act, omission, or failure of the utility. [Emphasis added.]

As a prima facie showing has been made that Kentucky Turnpike is in violation of the Commission's Order of November 25, 1996, and that its superintendent, Mr. Burke, has procured, aided, or abetted Kentucky Turnpike's violation of that Order, the Commission, on its own motion, HEREBY ORDERS that:

1. Kentucky Turnpike shall appear before the Commission on May 15, 1997, at 10:00 a.m., Eastern Daylight Time, in Hearing Room 2 of the Commission's offices at 677 Comanche Trail, Frankfort, Kentucky, for the purpose of presenting evidence concerning its alleged violation of the Commission's Order of November 25, 1996 in Case No. 96-557 which directed Kentucky Turnpike to satisfy or answer the complaint of Jesse and Barbara Ashbaugh.

2. Gerald P. Burke, superintendent of Kentucky Turnpike, shall appear before the Commission on May 15, 1997, at 10:00 a.m., Eastern Daylight Time, in Hearing Room 2 of the Commission's offices at 677 Comanche Trail, Frankfort, Kentucky, for the purpose of presenting evidence concerning his role in Kentucky Turnpike's alleged violation of the Commission's Order of November 25, 1996 in Case No. 96-557 which directed Kentucky Turnpike to satisfy or answer the complaint of Jesse and Barbara Ashbaugh.

3. Kentucky Turnpike shall submit to the Commission, within 20 days of the date of this Order, a written response to the allegations contained herein.

4. Mr. Burke, individually, shall submit to the Commission, within 20 days of the date of this Order, his written response to the allegations contained herein.

5. Any motion requesting an informal conference with Commission Staff to consider the simplification of issues or any other matters which may aid in the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of this Order.

Done at Frankfort, Kentucky, this 8th day of April, 1997.

PUBLIC SERVICE COMMISSION

Linda K. Breathitt  
Chairman

E. Lee J. Hines  
Vice Chairman

B. J. Helton  
Commissioner

ATTEST:

Don Mills  
Executive Director